

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

In Re:	:	Docket No. RCRA-03-2009-0298
	:	
Sunoco, Inc. (R&M)	:	CONSENT AGREEMENT
Marcus Hook Refinery	:	
100 Green Street	:	Proceeding under Sections 3008(a) and (g) of
Marcus Hook, PA 19601	:	the Resource Conservation and Recovery
	:	Act, as amended, 42 U.S.C. § 6928(a) and (g)
RESPONDENT	:	

I. PRELIMINARY STATEMENT

1. This Consent Agreement ("CA") is entered into by the Director of the Land and Chemicals Division, United States Environmental Protection Agency, Region III ("Complainant" or "EPA"), and Sunoco, Inc. (R&M) ("Sunoco" or "Respondent"), pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Pursuant to Section 22.13(b) of the Consolidated Rules of Practice, this CA and the attached Final Order ("FO", hereinafter jointly referred to as the "CA/FO") both commence and conclude the above-captioned administrative proceeding against Respondent, brought under Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a) and (g), for alleged violations of RCRA at Respondent's facility at 100 Green Street, Marcus Hook, PA 19601 ("the Facility").
2. On January 30, 1986, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, Pennsylvania was granted final authorization to administer a state hazardous waste management program ("PaHWR") in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. PaHWR was reauthorized by EPA on September 26, 2000 (effective on November 27, 2000), January 20, 2004 (effective on March 22, 2004), and April 29, 2009 (effective June 29, 2009). The provisions of the authorized PaHWR, through such authorization, have become requirements of RCRA Subtitle C and are, accordingly, enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
3. The factual allegations and legal conclusions in this CA are based on provisions of EPA's regulations implementing RCRA set forth at 40 C.F.R. Part 273 and the PaHWR in effect at the time of the violations alleged herein. The PaHWR incorporates by reference

certain federal hazardous waste management regulations that were in effect as of May 1, 1999 and July 6, 1999 for the November 27, 2000 PaHWR authorization, and in effect on September 25, 2003 for the March 22, 2004 PaHWR authorization. Neither the 2004 nor the 2009 authorization make any changes to the November 27, 2000 PaHWR that are relevant to the violations set forth herein.

4. On May 27, 2009, EPA sent a letter to the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection ("PADEP"), giving Pennsylvania prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
5. This CA is entered into by Complainant and Respondent to address the violations alleged in the Allegations of Fact, as set forth below.
6. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of this CA.
7. For the purposes of this proceeding only, Respondent neither admits nor denies the Allegations of Fact contained in this CA, except as provided in Paragraph 6, above.
8. For the purposes of this proceeding only, Respondent neither admits nor denies the Conclusions of Law contained in this CA, except as provided in Paragraph 6, above.
9. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations herein or to appeal the FO attached hereto.
10. The settlement agreed to by the parties in this CA reflects the desire of the parties to resolve this matter without litigation.
11. Respondent consents to the issuance of this CA and to the attached FO and agrees to comply with their terms. Respondent agrees not to contest Complainant's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
12. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

II. ALLEGATIONS OF FACT AND CONCLUSIONS OF LAW

13. This section represents the Allegations of Fact and Conclusions of Law made by Complainant in this matter. As set forth in Paragraphs 7 and 8, above, Respondent neither admits nor denies these Allegations of Fact and Conclusions of Law, but agrees to this settlement to avoid further litigation, as set forth in Paragraph 10, above.

14. Respondent is, and was at the time of the violations alleged herein, a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and as defined in 25 Pa. Code § 260a.10. Respondent is a Pennsylvania corporation and a wholly-owned subsidiary of Sunoco, Inc.
15. Respondent is, and was at the time of the violations alleged herein, the “owner” and “operator” of a “facility” located at 100 Green Street, Marcus Hook, PA 19601 (the “Facility”), as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference in 25 Pa. Code § 260a.1, or in 25 Pa. Code § 260a.10.
16. On August 5 through 6, 2008, representatives from EPA conducted an inspection of the Facility (the “2008 Inspection”).
17. At the time of the 2008 Inspection, and at all times relevant to the violations alleged in this CA, Respondent was a “generator,” and was engaged in the “storage” of materials described herein that are “solid wastes” and “hazardous wastes” in “containers” and “tanks” at the Facility, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference into 25 Pa. Code § 260a.1 or as defined in 25 Pa. Code § 260a.10. At all times relevant to the violations alleged in this CA, Respondent generated more than 1,000 kg of hazardous waste in a calendar month.
18. At the Facility, Respondent operates a storage pad covered by the Facility’s RCRA Permit, No. PAD980550594, issued by the Pennsylvania Department of Environmental Protection (“PADEP”) on December 12, 2006 (expires July 10, 2011), and several unpermitted areas that Sunoco has designated as areas that can store hazardous waste for 90 days or less. Sunoco has three separate “90-day storage areas,” that are the subject of this action:
 - a. inside Building 12,
 - b. the Riverside Building, and
 - c. inside the R&D Lab Building (collectively, “unpermitted areas.”).
19. On February 12, 2009 and May 26, 2009, EPA issued formal information request letters (“IRLs”) to Respondent pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927(a). Respondent responded to the IRLs in responses dated March 10, 2009 and June 3, 2009, respectively.

COUNT I

(Operating a treatment, storage, or disposal facility without a permit or interim status)

20. The allegations of Paragraphs 1 through 19 of this Consent Agreement are incorporated herein by reference.
21. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 40 C.F.R. § 270.1(b), as incorporated by reference into 25 Pa. Code § 270a.1, no person may own or operate a facility for the treatment, storage, or disposal of hazardous waste unless such person has first obtained a permit for the facility or qualifies for interim status for such facility.
22. Respondent has never been issued a permit, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. Part 270, for the storage of hazardous waste at the unpermitted areas at the Facility, and did not have interim status pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), or 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.70, at any time.
23. 40 C.F.R. § 262.34(a), as incorporated by reference into 25 Pa. Code § 262a.10, provides, in pertinent part, that a generator of hazardous waste who accumulates hazardous waste in containers, tanks, drip pads, or containment buildings on-site for less than 90 days is exempt from the requirement to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of conditions set forth in that section.
24. 40 C.F.R. § 262.34(a)(1)(i), as incorporated by reference into 25 Pa. Code § 262a.10, states that in order to qualify for the "90-day exemption," the generator must comply with the requirements of 40 C.F.R. Part 265, Subpart I (relating to use and management of containers).
25. 40 C.F.R. Part 265, Subpart I contains the following provision: 40 C.F.R. § 265.173(a) provides that containers holding hazardous waste must always be kept closed during storage, except when it is necessary to add or remove waste.
26. On at least August 5 and 6, 2008, Respondent was not in compliance with all of the conditions for temporary accumulation of hazardous waste by a generator pursuant to 40 C.F.R. § 262.34, as incorporated by reference into 25 Pa. Code § 262a.10, and therefore did not qualify for the exemption from the permitting/interim status requirements provided by such section.
27. Specifically, Respondent failed to qualify for the "less than 90-day" storage exemption in 40 C.F.R. § 262.34(a), because:

- a. Respondent stored hazardous waste in containers at the Facility beyond the 90-day period set forth in the exemption. The time periods beyond the 90-day period include: 8/3/08 - 8/18/08 (zinc dust), 5/20/08 - 8/19/08 (methyl mercaptan), 10/24/06 - 4/19/07 (picric acid), 1/24/07 - 4/19/07 (sensors), and
 - b. On August 5 and 6, 2008, Respondent failed to keep containers holding hazardous waste closed during storage except when necessary to add or remove waste, as required by 40 C.F.R. § 265.173(a).
28. The unpermitted areas at the Facility were, at the time of the activities alleged in this Count, hazardous waste treatment, storage or disposal "facilities," as the term is defined by 25 Pa. Code § 260a.10, with respect to the activities and units described above.
29. Respondent was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for the unpermitted areas at the Facility referred to in this Count.
30. From October 24, 2006 through April 19, 2007, and May 20, 2008 through August 19, 2008, Respondent stored hazardous waste at the Facility without a permit, interim status or valid exemption, in violation of 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

COUNT II

(Failure to keep containers closed except when adding or removing hazardous waste)

31. The allegations of Paragraphs 1 through 30 of this Consent Agreement are incorporated herein by reference.
32. Pursuant to 40 C.F.R. § 264.173(a), as incorporated by reference into 25 Pa. Code § 264a.1, a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
33. For the Facility's Permitted Pad, the Facility's RCRA Permit, Part III, Section G (Management of Containers), page 13, incorporates the requirements of 25 Pa. Code § 264a.1 and 40 C.F.R. § 264.173(a).
34. At the time of the 2008 Inspection, in the Riverside Building and R&D Lab Building at the Facility, several containers in which Respondent was storing hazardous waste were open during storage, even though it was not necessary to add or remove waste from these containers at the time of the Inspection.

35. On August 5 and 6, 2008, Respondent failed to keep hazardous waste containers in the Riverside Building and R&D Lab Building closed during storage while it was not necessary to add or remove waste, in violation of 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a).
36. During the August 2008 Inspection, Respondent was storing excavated spoils from the gas processing units, a "hazardous waste," in a container (i.e. a roll-off box) on the Permitted Pad . The tarp covering this container had a rip in it, and was therefore open even though it was not necessary to add or remove waste, allowing the container's contents to be exposed to rainwater.
37. On August 5 and 6, 2008, Respondent failed to keep the roll-off box closed, even though it was not necessary to add or remove waste, in violation of the provisions of the Facility's RCRA Permit, Part III, Section G, page 13, which incorporates by reference 40 C.F.R. § 264.173(a).

COUNT III

(Failure to clearly mark containers on Permitted Pad with the contents of container)

38. The allegations of Paragraphs 1 through 37 of this Consent Agreement are incorporated herein by reference.
39. Sunoco's RCRA Permit contains requirements for managing containers of hazardous waste on the Permitted Pad. The Permit, at Attachment 3 (Waste Analysis Report), requires the following: "All containers will be clearly marked as to the contents of the container and dated." RCRA Permit, page 3-4, Section 3.5.1, paragraph 5 (emphasis added).
40. During the 2008 Inspection, hazardous wastes stored in containers on the Permitted Pad had labels that were faded and illegible at the time of the inspection. For several drums and roll-off boxes storing hazardous wastes, the labels were faded or there were no labels, so that their contents could not be identified.
41. On August 5 and 6, 2008, Respondent failed to clearly and properly mark each container with its contents, in violation of a condition of its RCRA Permit, page 3-4, Section 3.5.1, paragraph 5.

COUNT IV

**(Failure to clearly mark containers on Permitted Pad with
dates that containers began accumulating waste)**

42. The allegations of Paragraphs 1 through 41 of this Consent Agreement are incorporated herein by reference.
43. Sunoco's RCRA Permit contains requirements for managing containers of waste on the Permitted Pad. The Permit, at Attachment 3 (Waste Analysis Report), requires the following: "All containers will be clearly marked as to the contents of the container and dated." RCRA Permit, page 3-4, Section 3.5.1, paragraph 5 (emphasis added).
44. During the 2008 Inspection, hazardous wastes stored in containers on the Permitted Pad had labels that were faded and illegible at the time of the inspection. For several drums and roll-off boxes storing hazardous wastes, the labels were faded or there were no labels, so that the dates that these containers began accumulating waste could not be identified.
45. On August 5 and 6, 2008, Respondent failed to clearly and properly mark each container with the date that it began accumulating waste, in violation of a condition of its RCRA Permit, page 3-4, Section 3.5.1, paragraph 5.

COUNT V

(Failure to operate the Facility in a manner that prevents or minimizes releases)

46. The allegations of Paragraphs 1 through 45 of this Consent Agreement are incorporated herein by reference.
47. Sunoco's RCRA Permit for the Facility, at Part II, Section A (Design and Operation of Facility), page 8, requires: "The Permittee shall maintain and operate the facility to minimize the possibility of a fire, explosion, or release of hazardous waste or hazardous waste constituents to air, soil, surface water, or ground water which could threaten human health or the environment."
48. During the August 2008 Inspection, a roll-off box located on the Permitted Pad contained excavation spoils from the gas plant process units, a hazardous waste. The tarp covering this roll-off box was covered with the same waste that had been placed inside the roll-off box, from the loading operation.
49. Wind or rain could have blown this hazardous waste off of the top of the tarp, and onto the surrounding ground or waterway, in such a way as to threaten human health or the environment.

50. On August 5 and 6, 2008, Respondent failed to maintain and operate the Facility in a manner to minimize the possibility of a release of waste to air, soil or water which could threaten human health or the environment, in violation of the Facility's RCRA Permit, Part II, Section A, page 8.

COUNT VI

(Failure to operate the Permitted Storage Pad free of cracks or gaps)

51. The allegations of Paragraphs 1 through 50 of this Consent Agreement are incorporated herein by reference.
52. The Facility's RCRA Permit, Part I, Section H.6 (Duties and Requirements, Proper Operation and Maintenance) and Part III, Section H (Containment), incorporating 40 C.F.R. § 264.175(b)(1), provides: "A containment system must be designed and operated as follows: (1) A base must underlie the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed."
53. During the 2008 Inspection, the Permitted Pad, which serves as the base that underlies the containers, had cracks and gaps. These gaps could potentially allow leaks, spills and rainwater to seep beneath the Pad.
54. On August 5 and 6, 2008, Respondent failed to operate the Permitted Storage Pad, which serves as the base that underlies the containers, so that it was free of cracks or gaps, in violation of the Facility's RCRA Permit, Part I, Section H.6 and Part III, Section H.

COUNT VII

(Failure to store containers in a proper configuration)

55. The allegations of Paragraphs 1 through 54 of this Consent Agreement are incorporated herein by reference.
56. 25 Pa. Code § 264a.173(3) requires that, for indoor or outdoor storage of nonreactive or nonignitable hazardous waste, the container height, width and depth of a group of containers shall provide a configuration and aisle spacing which ensures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles.
57. 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.35, requires that the owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire

protection equipment and spill control equipment to any area of facility operation in an event of emergency, with an exception not relevant to this matter.

58. During the 2008 Inspection, containers of nonreactive or nonignitable hazardous waste in Building 12 were stored in a configuration that did not ensure safe management and access for purposes of inspection, containment and remedial action with emergency vehicles. There was not sufficient aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment or decontamination equipment in an emergency.
59. On August 5 and 6, 2008, by virtue of its acts or omissions as described in this Count, Respondent violated of 25 Pa. Code § 264a.173(3) and 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.35.

COUNT VIII

(Failure to keep universal waste lamps in closed containers)

60. The allegations of Paragraphs 1 through 59 of this Consent Agreement are incorporated herein by reference.
61. 25 Pa. Code § 266b.1, incorporating by reference 40 C.F.R. § 273.13(d)(1), requires that “[a] small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.”
62. During the 2008 Inspection, Respondent, a “small quantity handler of universal waste,” stored “universal waste” “lamps,” as those terms are defined at 40 C.F.R. § 273.9, which is incorporated by reference into 25 Pa. Code § 266b.1, in cardboard boxes that were open.
63. On August 5 and 6, 2009, Respondent failed to contain universal waste lamps in containers that remained closed, in violation of 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1).

COUNT IX

(Failure to clearly label or mark containers of universal waste lamps)

64. The allegations of Paragraphs 1 through 63 of this Consent Agreement are incorporated herein by reference.

65. 25 Pa. Code § 266b.1, incorporating by reference 40 C.F.R. § 273.14(e), requires that “[e]ach lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: ‘Universal Waste-Lamp(s), or ‘Waste Lamp(s),’ or ‘Used Lamp(s).’ ”
66. During the 2008 Inspection, boxes of universal waste lamps that were initially labeled had labels covered with duct tape, rendering the labels unreadable and the boxes unlabeled or unmarked with any of the required phrases.
67. On August 5 and 6, 2009, Respondent failed to clearly label or mark its containers of universal waste lamps with the required phrases, in violation of 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e).

COUNT X
(Failure to submit an Exception Report)

68. The allegations of Paragraphs 1 through 67 of this Consent Agreement are incorporated herein by reference.
69. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.40(a), provides that a generator shall retain a copy of each manifest signed in accordance with subsection 40 C.F.R. § 262.23(a) for 3 years or until he receives a signed copy from the designated facility which received the waste. The signed copy from the designated facility must be retained as a record for at least 3 years from the date on which the waste was accepted by the initial transporter.
70. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.42, provides that a generator of greater than 1000 kilograms of hazardous waste in a calendar month must submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if such generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.
71. On February 14, 2008, Respondent sent two shipments of hazardous waste, consisting of 33,560 lbs of contaminated soil and 38,960 lbs of primary separator sludge containing benzene, to a designated facility. These shipments were accompanied by manifests completed by Respondent.
72. Respondent did not received copies of the manifests with the handwritten signature of the owner or operator of the designated TSDF within 45 days of the date the waste referred to in Paragraph 71 was accepted by the initial transporter, and Respondent did not submit

Exception Reports to the EPA Regional Administrator for EPA, Region III for such shipments.

73. Respondent failed to submit to the Regional Administrator of EPA, Region III Exception Reports for the two off-site shipments of hazardous waste referred to in Paragraphs 71 and 72, in violation of 25 Pa. Code § 262a.10, incorporating 40 C.F.R. §§ 262.40 and 262.42.

COUNT XI

(Failure to make a hazardous waste determination)

74. The allegations of Paragraphs 1 through 73 of this Consent Agreement are incorporated herein by reference.
75. 25 Pa. Code § 262a.10, incorporating by reference 40 C.F.R. § 262.11, requires generators of solid waste to determine whether the waste is hazardous using the methods specified therein.
76. Respondent failed to make a waste determination, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11, for 1,100 gallons of waste potassium permanganate, a hazardous waste which exhibited the characteristic of corrosivity ("D002"), shipped offsite on June 6, 2008.
77. Respondent failed to make a hazardous waste determination, in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11.

COUNT XII

(Failure to list the proper waste code on the manifest)

78. The allegations of Paragraphs 1 through 77 of this Consent Agreement are incorporated herein by reference.
79. 25 Pa. Code § 262a.10, incorporates by reference 40 C.F.R. Part 262, Appendix (Uniform Hazardous Waste Manifest and Instructions). In addition, 25 Pa. Code § 262a.20(a)(1) provides that generators must complete the manifest form in its entirety and distribute copies of such manifest in accordance with its instructions.
80. On June 6, 2008, Respondent shipped off-site 1,100 gallons of waste potassium permanganate, a hazardous waste which exhibited the characteristic of corrosivity ("D002"), without identifying the hazardous waste code D002 on the manifest.

81. Respondent failed to include on the manifest, for off-site shipments of the hazardous waste potassium permanganate, the hazardous waste code D002, in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. Part 262, Appendix, and 25 Pa. Code § 262a.20(a)(1).

III. CIVIL PENALTY

82. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this CA, Respondent consents to the assessment of a civil penalty in the amount of **ONE HUNDRED FORTY EIGHT THOUSAND THREE HUNDRED FIFTEEN DOLLARS (\$148,315.00)**, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CA/FO, fully executed by the parties, signed by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest in connection with such civil penalty as described in this CA/FO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CA/FO is mailed or hand-delivered to Respondent.
83. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of the violations and good faith efforts of the Respondent to comply, as provided for in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3).
84. Payment of the civil penalty amount set forth in Paragraph 82, above, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:
- A. All payments by Respondent shall reference Respondents name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2009-0298;
 - B. All checks shall be made payable to **United States Treasury**;
 - C. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Contact: Eric Volck 513-487-2105

- D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- E. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
D 680107027 Environmental Protection Agency

- F. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: John Schmid 202-874-7026 or REX, 1-866-234-5681

- G. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

H. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

I. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Natalie L. Katz
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

85. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondents failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
86. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
87. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPAs *Resources Management Directives - Cash Management*,

Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

88. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

IV. COMPLIANCE ORDER

89. Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to perform the following compliance tasks immediately upon the effective date of this Compliance Order, except as otherwise expressly provided:
- (a) Cease storing hazardous waste at the Facility except in accordance with a permit or interim status obtained pursuant to RCRA Section 3005, 42 U.S.C. § 6925, and 25 Pa. Code § 270a., or in accordance with the generator accumulation requirements of 25 Pa. Code § 262a.10 or other applicable exemption from permitting requirements under RCRA, EPA's regulations thereunder, or PaHWMR, as applicable.
 - (b) Keep containers holding hazardous waste closed during storage at the Facility except when it is necessary to add or remove waste, as required by 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.173(a).
 - (c) Clearly and properly mark each container on the Permitted Pad with its contents, as required by the Facility's RCRA Permit, page 3-4, Section 3.5.1, paragraph 5.
 - (d) Clearly and properly mark each container on the Permitted Pad with the date that the container begins accumulating waste, as required by the Facility's RCRA Permit, page 3-4, Section 3.5.1, paragraph 5.
 - (e) Operate the Permitted Pad at the Facility in a manner that minimizes the possibility of releases, as required by the Facility's RCRA Permit, Part II, Section A, page 8.
 - (f) Operate the Permitted Pad so that it is free of cracks or gaps, as required by the Facility's RCRA Permit, Part I, Section H.6 and Part III, Section H, referencing 40 C.F.R. § 264.175.

- (g) Store containers of nonreactive, nonignitable hazardous waste in a configuration with aisle spacing that ensures safe management and access for inspection and emergency response, as required by 25 Pa. Code § 264a.173(3) and 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.35.
 - (h) Store universal waste lamps in closed containers, as required by 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1).
 - (i) Clearly label or mark containers of universal waste lamps with one of the phrases required by 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e).
 - (j) Submit to the Regional Administrator of EPA, Region III Exception Reports for any shipments of hazardous waste for which copies of manifests signed by the owner or operator of the designated TSDF are not received within 45 days of the date the waste was accepted by the initial transporter, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.40 and 262.42.
 - (k) Make hazardous waste determinations for all solid waste generated by Respondent at the Facility, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.11.
 - (l) Complete all hazardous waste manifests in their entirety as required by 25 Pa. Code § 262a.20(a)(1), and 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. Part 262, Appendix, and include all applicable hazardous waste codes.
90. Within sixty (60) days after the effective date of this Compliance Order, submit to EPA a certification in the form set forth in Paragraph 92, below, by a responsible corporate officer, certifying whether the provisions of Paragraph 89 of this CA have been met by Respondent.
91. Information or documents required to be submitted to EPA under this Compliance Order shall be sent to:

Kenneth Cox (3LC70)
Environmental Scientist
Office of Land Enforcement
United States Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029;

and

Natalie L. Katz (3RC30)
Sr. Assistant Regional Counsel
United States Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029.

92. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Compliance Order which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this Compliance Order shall be certified by a responsible corporate officer of the Respondent. A responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

The certification of the responsible corporate officer required above shall be in the following form:

I certify that the information contained in or accompanying this [type of submission] is true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure the qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____
Name: _____
Title: _____

V. OTHER APPLICABLE LAWS

93. Nothing in this CA/FO shall relieve Respondent of any duties or obligations otherwise imposed upon it by applicable Federal, State or local laws or regulations.

VI. RESERVATION OF RIGHTS

94. This CA/FO resolves only EPA's claims for civil penalties for the specific violations of RCRA Subtitle C which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CA/FO.

VII. FULL AND FINAL SATISFACTION

95. This settlement shall constitute full and final satisfaction of Complainant's claims for civil penalties for the specific violations set forth in the CA/FO.

VIII. PARTIES BOUND

96. This CA/FO shall apply to and be binding upon EPA, Respondent, and Respondent's officers, employees, agents, successors and assigns. By his/her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized to enter into this Agreement on behalf of Respondent and to bind Respondent to the terms and conditions of this CA/FO.

IX. EFFECTIVE DATE

97. The effective date of this CA/FO is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or his designee, is filed with the Regional Hearing Clerk.

X. ENTIRE AGREEMENT

98. This CA/FO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties,

covenants, terms or conditions agreed upon between the parties other than those expressed in this CA/FO.

For the Respondent:

Sunoco, Inc. (R&M)

Date: 9/23/09

By: V. Steve Herzog
V. Steve Herzog
General Manager

For the Complainant:

U.S. Environmental Protection Agency, Region III

Date: _____

By: _____
Natalie L. Katz
Senior Assistant Regional Counsel

The Land and Chemicals Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator of the U.S. EPA Region III or his designee issue the accompanying Final Order.

Date: _____

By: _____
Abraham Ferdas, Director
Land and Chemicals Division

covenants, terms or conditions agreed upon between the parties other than those expressed in this CA/FO.

For the Respondent:

Sunoco, Inc. (R&M)

Date: 9/23/09

By: V. Steve Herzog
V. Steve Herzog
General Manager

For the Complainant:

U.S. Environmental Protection Agency, Region III

Date: 9/23/09

By: Natalie L. Katz
Natalie L. Katz
Senior Assistant Regional Counsel

The Land and Chemicals Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator of the U.S. EPA Region III or his designee issue the accompanying Final Order.

Date: 9/24/09

By: Abraham Ferdas
Abraham Ferdas, Director
Land and Chemicals Division

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103-2029**

IN THE MATTER OF:

In Re:	:	Docket No. RCRA-03-2009-0298
	:	
Sunoco, Inc. (R&M)	:	
Marcus Hook Refinery	:	
100 Green Street	:	
Marcus Hook, PA 19601	:	Proceeding under Sections 3008(a) and (g) of
	:	the Resource Conservation and Recovery
	:	Act, as amended, 42 U.S.C. § 6928(a) and (g)
RESPONDENT	:	

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Sunoco, Inc. (R&M), have executed a document entitled "Consent Agreement" which I ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are incorporated herein by reference.

NOW, THEREFORE, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a), and based upon the representations of the parties set forth in the Consent Agreement that the civil penalty amount agreed to by the parties in settlement of the above-captioned matter is based upon a consideration of the factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), IT IS HEREBY ORDERED THAT Respondent shall pay a civil penalty in the amount of **ONE HUNDRED FORTY EIGHT THOUSAND THREE HUNDRED FIFTEEN DOLLARS (\$148,315.00)**, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order is filed with the Regional Hearing Clerk of U.S. EPA, Region III.

Date: 9/29/09

BY: Renee Sarajian
Renee Sarajian
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III

**THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103-2029**

IN THE MATTER OF:

In Re:	:	CERTIFICATE OF SERVICE
	:	
Sunoco, Inc. (R&M)	:	Docket No. RCRA-03-2009-0298
Marcus Hook Refinery	:	
100 Green Street	:	Proceeding under Sections 3008(a) and (g) of
Marcus Hook, PA 19601	:	the Resource Conservation and Recovery
	:	Act, as amended, 42 U.S.C. § 6928(a) and (g)
RESPONDENT	:	


I certify that on the date noted below, I sent by Overnight Delivery Service, a copy of the Consent Agreement and Final Order, **In the Matter of: Sunoco, Inc. (R&M)**, U.S. EPA Docket Number **RCRA-03-2009-0298**, to the persons and addresses listed below.

V. Steve Herzog
General Manager
Sunoco, Inc. (R&M)
100 Green Street
Marcus Hook, PA 19601

Arnold D. Dodderer
Senior Counsel
Sunoco, Inc. (R&M)
Sunoco Refining and Supply
100 Green Street
Marcus Hook, PA 19601

The original Consent Agreement and Final Order, plus one copy, were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III.

Dated: 9/29/09



Natalie L. Katz
Senior Assistant Regional Counsel
Office of Regional Counsel
EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029